

STATE OF MICHIGAN
COURT OF APPEALS

LAURA FISHER,

Petitioner-Appellant,

and

BART FISHER,

Appellant,

v

CITY OF ANN ARBOR,

Respondent-Appellee.

UNPUBLISHED

January 30, 2014

No. 313634

Michigan Tax Tribunal

LC No. 00-426196

Before: WHITBECK, P.J., and FITZGERALD and O'CONNELL, JJ.

O'CONNELL, J. (*dissenting*).

I respectfully dissent. I would affirm the decision of the tax tribunal.

Petitioner appealed the Board of Review's 2011 valuation of her real property to the Michigan Tax Tribunal. The tribunal sent petitioner a notice of hearing for August 14, 2012. The notice clearly stated that failure to appear at the hearing would result in dismissal of the case. Petitioner failed to appear at the hearing, and the tribunal issued an order dismissing petitioner's case on October 8, 2012.¹

On appeal, petitioner claims that the tax tribunal abused its discretion when it dismissed petitioner's case for failure to appear and prosecute their appeal on the scheduled date for the hearing. I disagree. Petitioner's notice of hearing clearly stated that if she failed to appear on the

¹ Petitioner filed a motion for reinstatement, which was also denied by the tax tribunal.

trial date, her case would be dismissed. I see no abuse of discretion by the tax tribunal for dismissing a case when the petitioner fails to appear for trial.²

I would affirm the decision of the tax tribunal.

/s/ Peter D. O'Connell

² The majority opinion cites *Grimm v Treasury Dep't*, 291 Mich App 140, 149; 810 NW2d 65 (2010), for its authority that the tax tribunal abused its discretion in this matter. Unfortunately for petitioner, *Grimm* is factually distinguishable from the present facts. *Grimm* did not involve a factual situation where a petitioner/plaintiff failed to appear for a hearing/trial and/or failed to prosecute their cause of action in a timely matter.